

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DAMOTRESS BAILEY,

Plaintiff,

v.

COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION,

Defendant.

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Case No. 6:19-CV-473-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On February 4, 2020, the Magistrate Judge issued a Report and Recommendation (Docket No. 13), which recommends that the action be dismissed without prejudice for failure to timely file proof of service with the Court and failure to comply with a Court order. *Id.* at 2. The parties were served with the Report and Recommendation through their counsel of record via the Court's CM/ECF electronic filing system on February 4, 2020. *Id.* Plaintiff timely filed objections. Docket No. 15.


This Court reviews the findings and conclusions of the Magistrate Judge de novo if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Having conducted a de novo review, the Court finds that Plaintiff's objections should be overruled. Plaintiff argues that a brief has been filed and, "[u]nless the case is closed[,] the Summonses

will be served by certified mail tomorrow on Social Security Administration Chief Regional Counsel and by hand on the U.S. Attorney.” Docket No. 15 at 1. But no such summons has been requested by Plaintiff or issued by the Clerk of Court. Further, Plaintiff has not shown good cause for the failure to timely effect service or comply with the Court’s Order. Counsel for Plaintiff states only that she “has been serving the U.S. Attorney’s Office on the 90th day for service ever since she started her private practice in 2010,” Docket No. 15 at 1, which is belied by the numerous cases in which the Court has warned counsel regarding her failure to timely effect service. *See, e.g., Breitbarth v. Commissioner, SSA*, Civil Action No. 6:19-cv-93, Docket No. 6; *Simmons v. Commissioner, SSA*, Civil Action No. 6:19-cv-110, Docket No. 5; *Crawley v. Commissioner, SSA*, Civil Action No. 6:19-cv-361, Docket No. 10; *Green v. Commissioner, SSA*, Civil Action No. 6:19-cv-398, Docket No. 7; *Dodson v. Commissioner, SSA*, Civil Action No. 6:19-cv-434, Docket No. 7. Plaintiffs’ remaining objections are likewise without merit.

Having conducted a de novo review of the Magistrate Judge’s Report and Recommendation, the Court finds that the findings of fact and conclusions of law of the Magistrate Judge are correct. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 13) as the findings of this Court. Accordingly, it is hereby **ORDERED** that the Magistrate Judge’s Report (Docket No. 13) be **ADOPTED** and that the above-styled civil action be **DISMISSED WITHOUT PREJUDICE** for failure to timely file proof of service with the Court and failure to comply with a Court order. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **20th** day of **February, 2020**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE